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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,852	01/25/2001	John Edward Wiese	WIRE-01007US0 DEL	5501

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EXAMINER

SHEW, JOHN

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 06/25/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,852

Applicant(s)

WIESE ET AL.

Examiner

John L Shew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-19 is/are rejected.
- 7) ☒ Claim(s) 8-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 5 line 19 cites "3or" should be "3 or".

Page 6 line 16 cites "FIG." should be "FIG. 1".

Page 10 line 6 cites "backhual" should be "backhaul".

Page 10 line 22 cites "unit 52" should be "unit 32".

Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3 and 13-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 09/769848 in view of Hall.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of copending Application No. 09/769848 in view of Hall. Application 09/769848 claims a communications system for servicing customers (Application 09/769848 Claim 15 lines 1-2) referenced by the communications system of Claim 1 operating for servicing said customer premises, connected to access points (Application 09/769848 Claim 15 line 2) referenced by where said customer premises are connected to access points, and using an established backhaul transport to an office (Application 09/769848 Claim 15 lines 2-3) referenced by use an established backhaul transport to an office, comprising one or more remote digital subscriber line access multiplexers (Application 09/769848 Claim 15 lines 4-5) referenced by first connection means includes one or more remote digital subscriber line access multiplexers, connecting means for connecting said access multiplexers to said access points (Application 09/769848 Claim 15 lines 6-7) referenced by access connecting means for connecting said access multiplexers to said access points, an alternate backhaul transport for connecting said access multiplexers to provide broadband services to said customers (Application 09/769848 Claim 15 lines 9-10) referenced by said ATM network forms an alternate backhaul transport for

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connecting said access multiplexers to provide broadband services to said customer premises. Application 09/769848 Claim 15 does not claim an environmentally hardened remote digital subscriber line access multiplexer. Hall teaches an environmentally hardened enclosure (FIG. 11, column 19 lines 65 – column 20 lines 10) referenced by enclosure mounted on an external utility pole.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to install R-DSLAMs of the application inside the remote environmental enclosures of Hall for the purpose of rapid upgrades to avoid hyper-obsolescence.

Claims 2 and 3 are unpatentable over claim 16 of copending Application No. 09/769848. Application No. 09/769848 claims access multiplexers are all-weather hardened for outdoor installation and are located in utility-pole mountable enclosures (Application No. 09/769848 Claim 16 lines 1-2) referenced by access multiplexers environmentally-hardened in are all-weather, pole-mountable enclosures.

Claims 13, 14 and 15 are unpatentable over claim 17 of copending Application No.

09/769848. Application No. 09/769848 claims said office is an ILEC central office, said alternate backhaul transport connects to a CLEC office, said alternate backhaul transport connects to other networks (Application No. 09/769848 Claim 17 lines 1-3) referenced by said office is an ILEC central office and said alternate backhaul transport connects to said ILEC central office, to a CLEC office and to other networks.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7 and 10-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Elwahab et al. in view of Ayanoglu et al. and further in view of Hall.

Claims 1-3 and 7, Elwahab teaches a communications system (page 1, column 1 lines 21-25) referenced by the management of telecommunications devices, for servicing customers connected to access points (FIG. 1) referenced by customer premises 14 connecting to DSL 18 access points, and using an established backhaul transport to an office (FIG. 1) referenced by ATM Network 40 transport to Central Office 38, comprising one or more remote digital subscriber line access multiplexers (FIG. 1) referenced by DSLAM 36 being remote from a ATM switch, connecting means for connecting said

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access multiplexers to said access points (FIG. 1) referenced by the DSL 18 connecting DSLAM 36 to Customer Premise 14 access point ADSL Transmission Unit-Remote 56, connecting access multiplexers to provide broadband services to said customers (FIG. 1, page 6 column 1 lines 16-23) referenced by connecting DSLAMs providing broadband services including Ethernet 24, Telephony 62, Cable 28 and Power Lines 34. Elwahab does not teach an alternate transport network nor an environmentally hardened RDSLAM.

Ayanoglu teaches an alternate backhaul transport including a network of ATM switches (FIG. 2, FIG. 3, column 3 lines 46-52) referenced by the wireless ATM network 16 of ATM Portable Base Stations 22 which works in conjunction with an existing ATM Wide Area Network 18 to form an alternate backbone network.

Hall teaches an environmentally-hardened (weather-resistant) communications platform (FIG. 11, column 19 line 65 - column 20 line 10) installed on an outdoor utility-pole.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the wireless ATM network of Ayanoglu into the ATM broadband network of Elwahab for the purpose of laptop portability access.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to incorporate an environmentally-hardened communications platform of Hall into the DSLAMs of Elwahab for rapid upgrade to avoid hyper-obsolescence.

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Claims 10-12, Elwahab teaches a backhaul transport including a network of ATM switches (FIG. 1) referenced by transport of ATM Network 42 and ATM switches 40, supervised by an element manager (FIG. 1, page 2 column 1 lines 10-29, column 2 lines 20-23) referenced by the Element Management System tool 12 managing network elements including ATM Switches and DSLAMs. Elwahab does not teach an alternate backhaul transport. Ayanoglu teaches an alternate backhaul transport including a network of ATM switches (FIG. 2, FIG. 3, column 3 lines 46-52) referenced by the wireless ATM network 16 of ATM Portable Base Stations 22 which works in conjunction with an existing ATM Wide Area Network 18 to form an alternate backbone network. The alternate wireless ATM network connects to the established backhaul ATM network thus is managed by the EMS tool. Ayanoglu teaches the alternate backhaul transport includes ATM switches connected by wireless transports in a mesh network (FIG. 3, FIG. 6) referenced by wireless ATM Portable Base Stations 22 in a mesh configuration. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the wireless ATM network of Ayanoglu into the element managed supervised ATM broadband network of Elwahab for the purpose of laptop portability access.

Claims 13-19, Elwahab teaches said office connects to an ILEC central office (page 2 column 2 lines 38-49) referenced by an Incumbent Local Exchange Carrier as a network provider connecting the ATM network as an ISP. The Central Office connecting to such ISP is effectively itself an ISP thus is an ILEC. Elwahab teaches established backhaul

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transport connects to other networks such as Internet and a CLEC office (FIG. 1, page 2 column 2 lines 38-49) referenced by CLEC as a network provider connecting the ATM network as an ISP 48 to the Internet 60. Elwahab does not teach an alternate backhaul transport. Ayanoglu teaches an alternate backhaul transport including a network of ATM switches (FIG. 2, FIG. 3, column 3 lines 46-52) referenced by the wireless ATM network 16 of ATM Portable Base Stations 22 which works in conjunction with an existing ATM Wide Area Network 18 to form an alternate backbone network. Incorporation of Elwahab's ATM network with Ayanoglu's wireless ATM network connects the CLEC office, ILEC office and Internet to an alternate wireless ATM backhaul transport network.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elwahab, Ayanoglu and Hall as applied to claims 1-3, 7, 10-19 above, and further in view of Chiu.

Claims 4-5, Elwahab, Ayanoglu and Hall teach a wireless ATM network with DSLAM in weather-resistant enclosures. They do not teach DSLAMs include a processor, assembler/disassembler and switch fabric. Chiu teaches access multiplexers include a processor unit (FIG. 1, FIG. 7) referenced by DSLAM (IMAS) 101 using a PowerPC MPC603 200, an ATM assembler and disassembler unit (FIG. 7) referenced by ATM Segmentation And Reassembler 208, and an ATM switch fabric (FIG. 16) referenced by Chassis Switch Card of the IMAS. Chiu teaches access multiplexers includes a master

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unit (FIG. 7 column 30 lines 31-38) referenced by CPU subsystem with multi-master capability bus capability, and one or more trunk interface units (FIG. 5) referenced by Chassis Switch Card 10 interface to ATM network and Line Card 1 interface to DSL ports.

Claim 6, Hall teaches an environmentally-hardened (weather-resistant) communications platform enclosure (FIG. 11, column 19 line 65 - column 20 line 10) installed on an outdoor utility-pole. The use of the enclosure is applicable to various modules including DSLAM's CPU Subsystem and Trunk Interfaces.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the DSLAM components disclosed by Chiu to the DSLAMs of the ATM network of Elwahab for support of next generation virtual connections.

Allowable Subject Matter

5. Claims 8-9, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. Claims 20-21 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Shew whose telephone number is 703-305-8708. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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